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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte ROBERT A. VAN EIBERGEN SANTHAGENS, YPE B.
BRADA, WILLEM A. WESTERHOF and HETTE AKKERMANN¹

Appeal 2010-010060
Application 10/588,433
Technology Center 3700

Before RICHARD M. LEBOVITZ, KEVIN F. TURNER, and
DANIEL S. SONG, *Administrative Patent Judges*.

SONG, *Administrative Patent Judge*.

DECISION ON APPEAL²

¹ The real party in interest is Koninklijke Philips Electronics N.V. (App. Br. 2).

² The two-month time period for filing an appeal or commencing a civil action, as recited in 37 C.F.R. § 1.304, or for filing a request for rehearing, as recited in 37 C.F.R. § 41.52, begins to run from the "MAIL DATE" (paper delivery mode) or the "NOTIFICATION DATE" (electronic delivery mode) shown on the PTOL-90A cover letter attached to this decision.

The inventors (“Appellant”) appeal under 35 U.S.C. § 134(a) from a final rejection of claims 1-6 (App. Br. 2). We have jurisdiction over this appeal under 35 U.S.C. §§ 6(b) and 134(a).

The claimed subject matter is directed to a shaving head. Figure 2 of the '433 application is reproduced below.

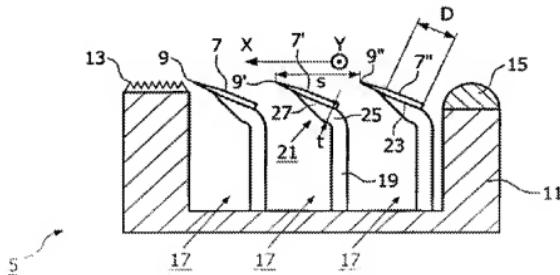


FIG. 2

Figure 2 above is a cross-sectional view of a shaving head 5 comprising a cartridge 11 in which cutting members 7, 7', 7" are supported by respective supporting members 17 over a supported area 23 on the respective cutting members 7, 7', 7" (Spec. p. 3, ll. 24-27; p. 4, ll. 16-27). The supported areas 23 extend “over a predetermined distance D in a direction perpendicular to the longitudinal direction Y” (Spec. p. 4, ll. 27-28). Each supporting member 17 includes a first portion 25 contacting the supported area 23 of the respective cutting member 7, 7', 7" at a location remote from the cutting edge 9, 9', 9" thereof, and a second portion 27 contacting the supported area 23 at a location close to the cutting edge 9, 9', 9" thereof (Spec. p. 4, l. 31 – p. 5, l. 3). The first portion 25 has a uniform

cross-sectional area seen in a direction perpendicular to the longitudinal direction Y, and the second portion 27 has a reduced cross-sectional area compared to that of the first portion 25 (Spec. p. 5, ll. 3-12). The second portion 27 extends over at least one half of the predetermined distance D (Spec. p. 5, ll. 13-14).

Independent claim 1 is representative of the appealed claims and reads as follows (App. Br. 20, Claims App'x.; paragraphing and emphasis added):

1. A shaving head comprising
at least two blade-shaped cutting members each
having a straight cutting edge extending parallel to a
longitudinal direction of the shaving head,
each cutting member being supported in a
cartridge of the shaving head by a supporting member
supporting the respective cutting member in a supported
area on the respective cutting member,
*said supported area extending over a
predetermined distance perpendicular to the longitudinal
direction, and*
each supporting member having a first portion in
contact with said supported area remote from the cutting
edge of the respective cutting member and a second
portion in contact with said supported area near the
cutting edge of the respective cutting member,
*said first portion having a uniform cross-sectional
area, seen perpendicularly to the longitudinal direction,
and*
said second portion having a reduced cross-
sectional area compared to the uniform cross-sectional
area of the first portion,
*wherein the second portion of the supporting
member of at least one of the cutting members extends
over at least half of said predetermined distance.*

THE REJECTIONS

The Examiner rejected claims 1, 2, 4 and 6 under 35 U.S.C. § 102(b) as anticipated by Eibergen (WO 01/39937 published June 7, 2001).

The Examiner rejected claims 3 and 5 under 35 U.S.C. § 103(a) as obvious over Eibergen in view of Ferraro (US 4,822,862 issued Oct. 20, 1998).

We REVERSE.

ISSUE

The sole issue in the present appeal is whether the Examiner erred in finding that Eibergen discloses each and every feature of claim 1.

FINDING OF FACT

The record supports the following finding of fact (FF) by a preponderance of the evidence: annotated portion of Figure 2 of Eibergen shown in the Examiner's Answer is reproduced below (Ans. 4).

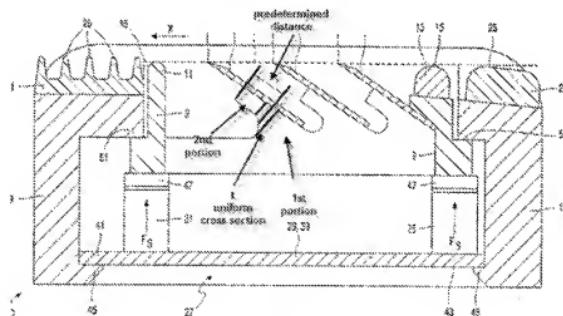


Figure 2 above is cross-sectional view of a shaving head 1 of Eibergen including three cutting blades. The Examiner's annotations to the figure show the "1st portion", "2nd portion", "predetermined distance" and "uniform cross-section" (Spec. II. 1-2, 13-14; Ans. 3-4).

PRINCIPLES OF LAW

Analysis of whether a claim is patentable over the prior art under 35 U.S.C. § 102 or § 103 begins with a determination of the scope of the claim. The Patent and Trademark Office gives claims their broadest reasonable interpretation consistent with the specification, reading claim language in light of the specification as it would be interpreted by one of ordinary skill in the art. *In re Am. Acad. of Sci. Tech. Ctr.*, 367 F.3d 1359, 1364 (Fed. Cir. 2004). The words of claims must be given their plain meaning unless the plain meaning is inconsistent with the specification. *In re Zletz*, 893 F.2d 319, 321 (Fed. Cir. 1989).

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631 (Fed. Cir. 1987).

ANALYSIS

Rejection of claims 1, 2, 4 and 6 as anticipated by Eibergen

The Examiner contends that Eibergen discloses each and every feature recited in claim 1 including cutting blades 5 (i.e., cutting members) (FIG. 2) each supported by a supporting member in a supported area thereon which

extends over a predetermined distance (Ans. 4, annotated as "predetermined distance"; FF); that each supporting member has a first portion with a uniform cross-section (Ans. 4, annotated as "1st portion" and "uniform cross-section"; FF) in contact with the supported area remote from the cutting edge, and a second portion (Ans. 4, annotated as "2nd portion"; FF) in contact with the supported area near the cutting edge and extending over at least half of the predetermined distance (Ans. 3-4). The Examiner states that "a predetermined distance has not been defined in the claims," and contends that annotated Figure 2 of Eibergen (Ans. 4, FF) shows "what is being considered to be the predetermined distance." (Ans. 5).

The Appellant argues that Eibergen does not disclose the claimed limitation that "the second portion of the supporting member of at least one of the cutting members extends over at least half of said predetermined distance." (Reply Br. 4-6). The Appellant contends that in the Final Rejection mailed April 14, 2009, the Examiner's interpretation of the predetermined length was the length over which the blade contacts the supporting member (Final Rej. 2-3), but the interpretation in the Examiner's Answer is one in which the "predetermined distance" is shorter than the contact distance between the cutting blade 5 and the supporting member, the distance consisting of the "1st portion" and "2nd portion" (Ans. 4; FF) is without any basis (Reply Br. 6; Ans. 4; FF).

In view of the record before us, we understand the Appellant's argument to be that the Examiner incorrectly interprets the claimed term "predetermined distance," which means the entire contact distance between the cutting member and the supporting member with the contact distance

consisting of the first and second portions as apparently originally understood by the Examiner.

We agree with the Appellant. In giving the claim language its broadest reasonable interpretation consistent with the specification, we observe that the supported area 23 is described as "extending over a *predetermined distance D*" (Spec. p. 4, ll. 27-28, emphasis added; FIG. 2). Figure 2 shows that the predetermined distance "D" is the entire length over which the cutting member 7" contacts the respective supporting member 17 that is divided into a first portion 25 and a second portion 27 (Spec. p. 4, ll. 25-27, p. 4, l. 31 – p. 5, l. 3; FIG. 2). Figure 3 shows another embodiment of the shaving head having a similar configuration (Spec. p. 5, ll. 10-35; FIG. 3). Hence, we find that the Examiner's construction of the term "predetermined distance" as any arbitrary distance is unreasonably broad and inconsistent with the Appellant's specification and drawings. Thus, we adopt the meaning of "predetermined distance" advocated by the Appellant.

In view of the above, we agree with the Appellant that Eibergen does not disclose "the second portion of the supporting member of at least one of the cutting members extends over at least half of said predetermined distance," where each portion has the cross-sectional requirements of claim 1. Moreover, even if the Examiner's interpretation was adopted, we observe that the region annotated as the "1st portion" in Eibergen does not have a *uniform* cross-sectional area seen perpendicularly to the longitudinal direction as recited in the claim. Rather, the "1st portion" has a *non-uniform*, continuously-increasing cross-sectional area seen in that direction by the virtue of its concave, fillet shape (Ans. 4; FF). Hence, we reverse the

Examiner's anticipation rejection of claim 1, as well as claims 2, 4 and 6, which depend from claim 1.

Rejection of Claims 3 and 5 as obvious over Eibergen in view of Ferraro

The Examiner relies on Ferraro for disclosing the features recited in claims 3 and 5 (Ans. 6-7). However, the Examiner's application of Ferraro does not remedy the deficiencies of Eibergen discussed *supra*, with respect to independent claim 1 from which claims 3 and 5 depend. Thus, the Examiner's obviousness rejection of claims 3 and 5 is not sustained.

CONCLUSION

The Examiner erred in finding that Eibergen discloses each and every feature of claim 1.

DECISION

The Examiner's rejections are REVERSED.

REVERSED

ack

cc:

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